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AMIN, TUROCY & CALVIN, LLP			EXAMINER	
24TH FLOOR, NATIONAL CITY CENTER			THERIAULT, STEVEN B	
1900 EAST NINTH STREET				
CLEVELAND, OH 44114			ART UNIT	PAPER NUMBER
			2179	
			NOTIFICATION DATE	DELIVERY MODE
			02/21/2008	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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### Office Action Summary

**Application No.**

10/743,601

**Applicant(s)**

VENOLIA, GINA D.

**Examiner**

STEVEN B. THERIAULT

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**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17, 20-29 and 32-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17, 20-29, 32-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
- Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

#### **DETAILED ACTION**

1. This action is responsive to the following communications: RCE filed 11/05/2007.
2. Claims 1 –17, 20-29, 32-41 are pending in the case. Claims 1, 23, 32, and 33 are the independent claims. Claims 18-19 and 31 have been cancelled. Claims 35-41 are new claims.

#### ***Continued Examination Under 37 CFR 1.114***

3. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/05/2007 has been entered.

#### ***Claim Objections***

4. Claims 18-19 and 31 are objected to because of the following informalities: 37 CFR 1.121 (c)(4) states that no claim text shall be presented with a cancelled claim. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6-17, 20-22, 25, 28-30 recite the limitations "in a cluster" and "the clusters" and "within any one cluster" etc. There is insufficient antecedent basis for these limitations in the claims, as the cluster limitations have been removed from the parent claims.

#### ***Claim Rejections - 35 USC § 101***

5. In light of applicant's amendment adding the structural hardware components the previous

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rejection is now considered moot.

***Claim Rejections - 35 USC § 103***

6. **The following is a quotation of 35 U.S.C. 103(a) that forms the basis for all obviousness rejections set forth in this Office action:**

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 1, 3-17, 20-23, 25-30, 32-33, 35-38 are rejected under 35 U.S.C 103(a) as being unpatentable over Clark et al. U.S. Patent No. 6725228 issued Apr. 20, 2004 and filed Oct. 31, 2000, in view of Matsubara et al. (hereinafter Matsubara) U.S. patent publication no. 20040201668 published Oct 14, 2004 and filed Apr. 11, 2003.**

In regard to **Independent claim 1**, Clark teaches a system that facilitates content management, comprising:

- A component that receives message content (Clark column 4, lines 25-50). Clark teaches a message store (See figure 4c, message store server).
- An organization component that determines and graphically arranging the content in response to having an active status (See column 33, lines 30-55 and column 31, bottom). Clark shows automatically organizing into multiple folders based on the properties of the message.

The present application specification defines an "un-accessed and pending cluster as including aspects of the un-accessed and pending clusters. The un-accessed cluster supports the

user's initial activity in determining what to do with a message and the pending cluster keeps track of reminders or pending items (See Para 0032-0033).

Using the intrinsic definition, Clark does teach a process of displaying messages based on attributes of the message that can include status of the message once, it has been received into the store and Clark teaches an active status of an email message as an attribute (See figure 17 and Clark teaches automatically associating a message with a folder where the folder association can be based on message status and correspondents (See column 10, lines 1-10). However, Clark does not expressly detecting a two way communication channel in which a user is selectively active with at least one other participant and determining an active status of the message content according to a currently active communication channel with the participant associated with the message content and that dynamically partitioning the content based on the active status. Matsubara teaches a system of displaying folders, much like the folders of Clark, where the folders are the folders that are displayed are only to those whom are associated with a folder. For example, Matsubara teaches a presence indicator to alert the user that the other user is online or active (two communications See Para 68-70) and only presents the users that are active if they are online to the current user (See Para 77-79), which is an active characteristic of the message if it was received from a user online. Therefore, as the user organizes and requests folders the system clearly indicates to the user the presence of the other user and organizes the content to reflect the status of the users (See also Para 92 and 99). Matsubara specifically teaches a process of alerting a user who has access to a folder to the presence of another user and updates the display.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, having the teachings of Clark and Matsubara in front of them, to modify the system of Clark to show the folders with a presence indicator of another user and to organize the folders on the display to only show those with an active status. The motivation to combine Matsubara with Clark comes from the suggestion in Matsubara that users would like to contact owners of files with very little effort for the purposes of increasing productivity and collaboration with others (See

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Para 0008). Further, Matsubara teaches the presence policy applies to controlling access to Email as well as IM and VOIP conversations (See Para 44) and can give the user an indication if the other user is willing to access email (See Para 65).

With respect to **dependent claims 3 - 5**, Clark teaches the system the content comprising messages, the content comprising media, computer-based applications (Clark column 8, lines 35-45).

With respect to **dependent claims 6 - 17**, Clark teaches that the system content can be clustered into a folder based at least in part on priority, preference, utility, cost, author, genre, criticality, age, context, size, rendering device, combination of two preferences, and user state. Clark column 10, lines 1-10 and column 41, lines 20-40. Clark teaches date, status, attachments, keywords (that can comprise any user choice input such as cost, author, genre, preference, etc). Matsubara teaches sharing files in a peer file system where information that can be email can be in a folder and could be shared among peer users (See Para 56). Moreover, the limitation would have been obvious to one of ordinary skill in the art at the time of the invention, in view of Voticky, because Voticky teaches prioritizing or filtering email based on characteristics of the email, which can be interpreted to comprise a combination of the above (See column 4, lines 25-35, 60-67 and column 5, lines 1-10).

With respect to **dependent claim 20**, Clark teaches the system further comprising a cluster filtering component operatively connected between the receiving component and the organization component comprising one or more filters that directs content to at least one of the four clusters based at least in part upon user preferences (Clark column 13, lines 30-67 and column 14, lines 1-67). Clark shows a component that filters the messages into the folders. Each layer adds functionality to prioritize the messages into the correct folder based on a rule (See also figure 7).

With respect to **dependent claim 21**, Clark teaches the system that the cluster-filtering component is trained using at least one of explicit user input or implicit user behavior (column 41, lines 20-40 and column 42, lines 20-30).

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With respect to **dependent claim 22**, Clark teaches the system that one of the four clusters comprises at least one sub-filter that facilitates organizing content within any one of the clusters (Clark column 13, lines 30-67 and column 14, lines 1-67). Clark teaches numerous sub-filters.

In regard to **Independent claim 23**, Clark teaches a method that facilitates content management comprising:

- Receiving message content (Clark column 4, lines 25-50). Clark teaches receiving message content.
- Dynamically organizing and displaying message content determined to be active See column 33, lines 30-55 and column 31, bottom). Clark shows automatically organizing into multiple folders based on the properties of the message. Clark also shows a process of automatically organizing messages as they are received (See column 33, lines 30-67).

The present application specification defines an "un-accessed and pending cluster as including aspects of the un-accessed and pending clusters. The un-accessed cluster supports the user's initial activity in determining what to do with a message and the pending cluster keeps track of reminders or pending items (See Para 0032-0033).

Using the intrinsic definition, Clark does teach a process of displaying messages based on attributes of the message that can include status of the message once, it has been received into the store and Clark teaches an active status of an email message as an attribute (See figure 17 and Clark teaches automatically associating a message with a folder where the folder association can be based on message status and correspondents (See column 10, lines 1-10). However, Clark does not expressly detecting a real-time communication with a participant and determining an active status of the received message content in response to associating the participant to the message content and dynamically partitioning the content based on the active status. Matsubara teaches a system of displaying folders, much like the folders of Clark, where the folders are the folders that are displayed are only to those whom are associated with a folder.

For example, Matsubara teaches a presence indicator to alert the user that the other user is online or active (two communications See Para 68-70) and only presents the users that are active if they are online to the current user (See Para 77-79), which is an active characteristic of the message if it was received from a user online. Therefore, as the user organizes and requests folders the system clearly indicates to the user the presence of the other user and organizes the content to reflect the status of the users (See also Para 92 and 99). Matsubara specifically teaches a process of alerting a user who has access to a folder to the presence of another user and updates the display.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, having the teachings of Clark and Matsubara in front of them, to modify the system of Clark to show the folders with a presence indicator of another user and to organize the folders on the display to only show those with an active status. The motivation to combine Matsubara with Clark comes from the suggestion in Matsubara that users would like to contact owners of files with very little effort for the purposes of increasing productivity and collaboration with others (See Para 0008). Further, Matsubara teaches the presence policy applies to controlling access to Email as well as IM and VOIP conversations (See Para 44) and can give the user an indication if the other user is willing to access email (See Para 65).

With respect to **dependent claim 25**, Clark teaches the method further comprising employing one or more filters to organize at least a portion of the content as part of at least one of the clusters (See figure 7 and column 13, lines 30-67) Clark teaches filters that organize the information into folder and where the files can exist in more than one folder

With respect to **dependent claims 26-27**, Clark teaches the method where the content comprises text messages or computer-based applications (Clark column 8, lines 35-45).



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With respect to **dependent claim 28**, Clark teaches that the system content can be clustered into a folder based at least in part on priority, preference, utility, cost, author, genre, criticality, age, context, size, rendering device, combination of two preferences, and user state. Clark column 10, lines 1-10 and column 41, lines 20-40. Clark teaches date, status, attachments, keywords (that can comprise any user choice input such as cost, author, genre, preference, etc). Moreover, the limitation would have been obvious to one of ordinary skill in the art at the time of the invention, in view of Voticky, because Voticky teaches prioritizing or filtering email based on characteristics of the email, which can be interpreted to comprise a combination of the above (See column 4, lines 25-35, 60-67 and column 5, lines 1-10).

With respect to **dependent claim 29**, Clark teaches the method where further comprising adding one or more visual indicators to at least one cluster to facilitate content viewing and management (Clark Figure 6 and column 12, lines 25-45).

With respect to **dependent claim 30**, Clark teaches making the content and/or a copy thereof available for arrangement into more than one cluster (See Clark column 1, lines 55-67, column 4, lines 25-40 and column 10, lines 4-10).

In regard to **claim 32**, claim 32 reflects the computer readable medium comprising the computer readable instructions for performing the method steps of claim 23, and is rejected along the same rationale.

In regard to **Independent claim 33**, Clark teaches a system that facilitates content management comprising:

- Means for receiving message content (Clark column 4, lines 25-50). Clark teaches a message store (See figure 4c, message store server).

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- Means for dynamically organizing and graphically displaying message content determined to be active (See column 33, lines 30-55 and column 31, bottom). Clark shows automatically organizing into multiple folders based on the properties of the message. Clark also shows a process of automatically organizing messages as they are received (See column 33, lines 30-67). Clark teaches the use of message store and a graphical interface to display message content with an active status (See Figure 17 and column 13, lines 1-30).

The present application specification defines an "un-accessed and pending cluster as including aspects of the un-accessed and pending clusters. The un-accessed cluster supports the user's initial activity in determining what to do with a message and the pending cluster keeps track of reminders or pending items (See Para 0032-0033).

Using the intrinsic definition, Clark does teach a process of displaying messages based on attributes of the message that can include status of the message once, it has been received into the store and Clark teaches an active status of an email message as an attribute (See figure 17 and Clark teaches automatically associating a message with a folder where the folder association can be based on message status and correspondents (See column 10, lines 1-10). However, Clark does not expressly detecting a two-way communication with a participant and determining an active characteristic of the received message content as being associated with the participant to the message content and dynamically partitioning the content based on the active status. Matsubara teaches a system of displaying folders, much like the folders of Clark, where the folders are the folders that are displayed are only to those whom are associated with a folder. For example, Matsubara teaches a presence indicator to alert the user that the other user is online or active (two communications See Para 68-70) and only presents the users that are active if they are online to the current user (See Para 77-79), which is an active characteristic of the message if it was received from a user online. Therefore, as the user organizes and requests folders the system clearly indicates to the user the presence of the other user and organizes the

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content to reflect the status of the users (See also Para 92 and 99). Matsubara specifically teaches a process of alerting a user who has access to a folder to the presence of another user and updates the display.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, having the teachings of Clark and Matsubara in front of them, to modify the system of Clark to show the folders with a presence indicator of another user and to organize the folders on the display to only show those with an active status. The motivation to combine Matsubara with Clark comes from the suggestion in Matsubara that users would like to contact owners of files with very little effort for the purposes of increasing productivity and collaboration with others (See Para 0008). Further, Matsubara teaches the presence policy applies to controlling access to Email as well as IM and VOIP conversations (See Para 44) and can give the user an indication if the other user is willing to access email (See Para 65).

With respect to **dependent claims 35-38**, as indicated in the above discussion, Clark in view of Matsubara teaches every limitation of the claim 1.

Clark does not mention having a communication channel with another comprising a video conference, online chat, telephone call or instant message session. However, these limitations would have been obvious to one of ordinary skill in the art at the time of the invention, in view of Matsubara, because Matsubara expressly teaches having VOIP and IM sessions with users while they are online to discuss the information in the shared folders (See Para 0065-0069). Matsubara also teaches video conversations (See Para 63).

**Claims 2, 24, 34, 39, 40 and 41 are rejected under 35 U.S.C 103(a) as being unpatentable over Clark et al. U.S. Patent No. 6725228 issued Apr. 20, 2004 and filed Oct. 31, 2000, in view of Matsubara et al. (hereinafter Matsubara) U.S. patent publication no. 20040201668**

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**published Oct 14, 2004 and filed Apr. 11, 2003, in further view of Voticky et al (hereinafter Voticky) U.S. patent no. 6351764 issued Feb. 26, 2002.**

With respect to **dependent claims 2, 24, 34, 39, 40 and 41** as indicated in the above discussion Clark in view of Matsubara teaches every element of claim 1, 23, 33, 39 and 40.

Clark in view of Matsubara does not expressly teach the system the clusters of content are hierarchically displayed in the following order: (1) un-accessed, (2) un-accessed and pending, (3) pending, and (4) accessed. Clark does show the ability to display the mail in a hierarchical manner (See figure 1b and 6) and in a variety of status' (See figure 17 and Table IV in columns 31-33) but does not show the specific clusters mentioned above. Matsubara teach the folders can be arranged in a hierarchical tree and can have an organizational component by either user or folder (See figure 2). Matsubara also does not show the folders with the statuses above.

However, this limitation would have been obvious to one of ordinary skill in the art at the time of the invention, in view of Voticky, because Voticky teaches that any number of status indicators can be added to a message and that any number of mailboxes can be hierarchically displayed on the screen and in any grouping the user desires. For example see Figure 4, where the user has chosen to show email organized to their own preference and in separate distinct sections.

It is noted that any citation to specific, pages, columns, lines, or figures in the prior art references and any interpretation of the references should not be considered to be limiting in any way. A reference is relevant for all it contains and may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art. In re *Heck*, 699 F.2d 1331, 1332-33, 216 USPQ 1038, 1039 (Fed. Cir. 1983) (quoting In re *Lemelson*, 397 F.2d 1006, 1009, 158 USPQ 275, 277 (CCPA 1968)).

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***Response to Arguments***

Applicant's arguments with respect to claims 1-17, 20-29, 32-41 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. Theriault whose telephone number is (571) 272-5867. The examiner can normally be reached on M, W, F 10:00AM - 8:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (571) 272-4847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Steven B Theriault/  
Patent Examiner  
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